

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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INGINIO HERNANDEZ,

Plaintiff,

v.

RENEE BAKER et al.,

Defendants.

Case No. 3:14-cv-00307-MMD-WGC

ORDER

I. DISCUSSION

On August 6, 2014, this Court issued a screening order dismissing the amended complaint in its entirety for failure to state a claim but granted leave to amend. (Dkt. no. 5 at 10.) This Court ordered Plaintiff to file a second amended complaint within thirty (30) days of the date of that order and forewarned Plaintiff that the failure to do so would result in the action being dismissed with prejudice for failure to state a claim. (*Id.*) Plaintiff did not file a second amended complaint or otherwise respond to this Court's order. On September 11, 2014, this Court dismissed the case with prejudice for failure to file a second amended complaint and for failure to state a claim. (Dkt. no. 7.) The Clerk of the Court entered judgment accordingly. (Dkt. no. 8.)

On September 12, 2014, Plaintiff filed a document entitled "motion for dismissal on that basis be this case upon." (Dkt. no. 9.) In the motion, Plaintiff appears to allege that his case should be reopened because he did not have the assistance of persons trained in the law and because he is illiterate. (*Id.* at 1-2.) Alternatively, Plaintiff may be asking for the appointment of counsel. (*See id.*)


1 A motion to reconsider must set forth "some valid reason why the court should
2 reconsider its prior decision" and set "forth facts or law of a strongly convincing nature to
3 persuade the court to reverse its prior decision." *Frasure v. United States*, 256
4 F.Supp.2d 1180, 1183 (D. Nev. 2003). Reconsideration is appropriate if this Court "(1) is
5 presented with newly discovered evidence, (2) committed clear error or the initial
6 decision was manifestly unjust, or (3) if there is an intervening change in controlling
7 law." *Sch. Dist. No. 1J v. Acands, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). "A motion for
8 reconsideration is not an avenue to re-litigate the same issues and arguments upon
9 which the court already has ruled." *Brown v. Kinross Gold, U.S.A.*, 378 F.Supp.2d 1280,
10 1288 (D. Nev. 2005).

11 The Court denies Plaintiff's motion to reopen his case and/or appointment of
12 counsel. The Court notes that Plaintiff never filed a motion for appointment of counsel
13 while the case was open. Additionally, Plaintiff failed to contact the Court within the thirty
14 (30) day period given to him to file a second amended complaint. As such, the motion to
15 reopen is denied.

16 II. CONCLUSION

17 For the foregoing reasons, it is ordered that the "motion for dismissal on that
18 basis be this case upon" (dkt. no. 9), which the Court interprets as either a motion to
19 reopen the case and/or motion for appointment of counsel, is denied.

20 DATED THIS 18th day of September 2014.

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23 _____
24 MIRANDA M. DU
25 UNITED STATES DISTRICT JUDGE
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